

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 96.11, the Director of the Department of Workforce Development hereby gives Notice of Intended Action to amend Chapter 26, “Contested Case Proceedings,” Iowa Administrative Code.

These proposed amendments clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development in the unemployment appeal process. The amendments also bring the rules up to date by reflecting changes in technology and efficiencies developed within the agency since the affected rules were adopted. The agency needs administrative rules that address these changes.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before August 22, 2017, by sending them to Emily Chafa, Iowa Workforce Development, Appeals Bureau, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to emily.chafa@iwd.iowa.gov.

These amendments do not have any fiscal impact on the State of Iowa.

Waiver provisions do not apply to this rule making.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 96.

The following amendments are proposed.

ITEM 1. Amend subrule 26.4(1) as follows:

26.4(1) An unemployment benefits contested case is commenced with the filing, by mail, facsimile, or e-mail, online, or in person, of a written appeal by a party with the appeals bureau of the department. The appeal shall be addressed or delivered to: Appeals Bureau, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. An online appeal is filed by completing and submitting an online appeal form available on the Iowa workforce development Web site.

ITEM 2. Amend subrule 26.4(2), introductory paragraph, as follows:

26.4(2) An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp, after the decision was mailed to the party at its last-known address and shall state the following:

ITEM 3. Amend subrule 26.4(5) as follows:

26.4(5) Appeals transmitted by facsimile, by e-mail, or online which are received by the appeals bureau after 11:59 p.m. Central time shall be deemed filed as of the next regular business day.

ITEM 4. Rescind rule 871—26.5(17A,96) and adopt the following **new** rule in lieu thereof:

871—26.5(17A,96) Commencement of employer liability contested case.

26.5(1) An employer liability contested case is commenced with the filing of a written appeal with the tax bureau of the department by mail, facsimile, or e-mail, online, or in person. The appeal shall be addressed or delivered to: Tax Bureau, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

26.5(2) An appeal from a decision of the tax bureau of the department concerning employer status and liability, assessments, contribution (tax) rate, successorship, workers’ status, and all questions

regarding coverage of a worker or group of workers shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than 30 calendar days, as determined by the postmark or the date stamp, after the decision was mailed to the party at the party's last-known address and shall set forth the following:

- a. The name, address, and Iowa employer account number of the employer;
- b. The name and title of the person filing the appeal;
- c. A reference to the decision from which the appeal is taken; and
- d. The grounds upon which the appeal is based.

26.5(3) Appeals transmitted by facsimile, by e-mail, or online which are received by the tax bureau after 11:59 p.m. Central time shall be deemed filed as of the next regular business day.

ITEM 5. Amend paragraph **26.6(1)“a”** as follows:

- a. The date, time and place of an in-person hearing, or the date and time of a telephone hearing, including instructions for ~~calling~~ contacting the appeals bureau in advance of the hearing to provide the names and telephone numbers of all participants and witnesses; and

ITEM 6. Amend paragraph **26.14(1)“b”** as follows:

- b. ~~All-contested~~ Contested case hearings in which the department of workforce development is a party ~~shall~~ may be heard and decided by ~~a-presiding officer who is~~ an administrative law judge employed by the division of administrative hearings of the department of inspections and appeals.

ITEM 7. Amend paragraph **26.14(1)“c”** as follows:

- c. The department of workforce development is a party to ~~all~~ contested case hearings in which it is the employer. ~~It~~ The department of workforce development is a party to ~~those~~ contested case hearings involving issues of employer liability; and employee/independent contractor status; ~~fraudulent overpayment and administrative penalty in which it or any of its employees request the right to participate in the hearing by offering testimony and cross-examining witnesses for other parties that arise from decisions issued by the tax bureau.~~